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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,534	11/05/2003	Alan R. Clouston	370-2US	6029

20212 7590 09/16/2004

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EXAMINER

TRETTEL, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/700,534

Applicant(s)

CLOUSTON, ALAN R.

Examiner

Michael Trettel

Art Unit

3673

*MT*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 16-29 and 31 is/are rejected.
- 7) ☒ Claim(s) 12-15 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 112***

Claims 20 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 recites the limitation "each corner" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 31 recites the limitation "elastic properties of the lengths" in line 3. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-4, 6, 7, 9, 16, 19, 21, 22, 24, 25, 27, and 31 are rejected under 35 U.S.C.

102(b) as being anticipated by Deroche (US 5,327,922). Deroche shows a beach blanket stake device 10 that comprises a barbed shaft 11 that has a pointed apex 12 with barbs 14 being arranged along the length of the shaft. The shaft is formed with an inverted cone shape defined between the apex 12 and an upper wall or head 13. Note that there is a smooth surface area between the barbed area and the upper end of the shaft head 13, which could inherently be used for indicia. A clamp formed by a rigid jaw plate 15 and spring loaded pivoted jaw plate 16 is attached to the head end 13 of the shaft. A spring 17 provides elastic qualities to the clamp jaws to bias them into a closed position in order to retain the corners or side edges of a beach blanket.

Claims 1, 6, 7, 9-11, 17, 19, 20, 24, 25, 27-29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Ramirez et al (US 5,713,383). Ramirez et al shows a beach blanket anchor 10 that comprises a post or stake 20 that has a spring loaded clamp 22 affixed to a head of the post. The device can be made from plastic (Column 4, lines 3-6) and can be used to secure the corners of a beach blanket (column 4, lines 18 and 19). The clamp include a fixed jaw 24 and a pivoted jaw 40 that are biased together by a coil spring 60. Note that each jaw includes interlocking teeth 32, 42 that form a series of ridges along the edges of the jaws.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 17, 18, 20, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deroche (US 5,327,922). It clearly would have been obvious to the skilled artisan to have used the Deroche blanket stake as a means for securing a picnic blanket and as a means for securing the corners of a rectangular ground cover, this being well within the ordinary level of skill in the art. It also would have been obvious to the skilled artisan to have made the Deroche blanket stake from a brightly colored plastic material, since the use of plastic materials is so commonly known and the use of bright colors as a decorative means is also so well known within the art.

Claims 5 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramirez et al in view of St. Clair (US 4,258,514). St. Clair teaches that a ground engaging stake or post 44 can include a spiral 54 attached along the length of the post that allows the post to be screwed into the ground. This creates a more secure attachment since the stake has a positive attachment with the ground, making it more difficult to simply pull the stake out. Because of this it would have been obvious to the skilled artisan to have added a spiral as taught by St. Clair to the ground stake portion of the Ramirez beach blanket anchor, in order to make it more difficult to pull the stake loose while it is in use.

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***Allowable Subject Matter***

Claims 13 -15 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hyduk, Wilburn et al, and Griffiths et al show beach blanket anchors that are of general interest. Schatz, Bellette, and Cockman show ground stakes and anchors that are of general interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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A handwritten signature in black ink, appearing to read "Michael Trettel", with a long horizontal flourish extending to the right.

Michael Trettel  
Primary Examiner  
Art Unit 3673